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OFFICE OF PETITIONS

In re Application of :
William Wiles :
Application No. 10/765,449 : DECISION ON
Filed: January 27, 2004 : PETITION
Atty Docket No. WILES-005 :

This is a decision on the RENEWED PETITION UNDER 37 CFR 1.137(A) AND REQUEST FOR RECONSIDERATION filed July 18, 2005.

The petition under § 1.137(a) is GRANTED.

The above-identified application became abandoned on August 16, 2004 for failure to file a timely and proper reply to the Notice to File Missing Parts of Application mailed June 15, 2004. A courtesy Notice of Abandonment was mailed on March 10, 2005. By decision mailed July 8, 2005, the initial petition filed April 1, 2005 was dismissed. Petitioner did not meet his burden of establishing that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unavoidable within the meaning of § 1.137(a). Specifically, petitioner did not submit adequate evidence to show, as alleged, that the Notice to File Missing Parts of Application was not received.

Preliminarily, it is noted that the initial decision contained a typographical error as follows (as recognized by petitioner):

As to requirement (1), absent a persuasive showing of non-receipt, any petition under § 1.137 to be grantable must include the required fees in the amount in effect on the


date of filing of the petition. As to requirement (2), the instant petition does not satisfy the requirement.

This language appeared in the decision in error. In fact, the only basis for dismissing the petition was that it did not satisfy requirement (3) ("showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable."). The petition as filed on April 1, 2005 included a response to the Notice to File Missing Parts and payment of the petition fee. No terminal disclaimer is required to revive this application.

On instant renewed petition, petitioner submitted a statement from the practitioner stating that the Office communication mailed June 15, 2004 was not received by the practitioner prior to March 16, 2005. Practitioner attested to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed was attached to and referenced in practitioner's statement.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is, thereby, forwarded to OIPE for processing of the response filed April 1, 2005.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.



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